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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/727,640	11/30/2000	James T. Walker		2414

7590 11/14/2002

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EXAMINER

MELWANI, DINESH

ART UNIT	PAPER NUMBER
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3677

DATE MAILED: 11/14/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/727,640

Applicant(s)

WALKER, JAMES T.

Examiner

Dinesh N Melwani

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on 22 August 2002.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-15, 17-34, 36-49 and 51-55 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-15, 17-34, 36-49 and 51-55 is/are rejected.
- 7) ☒ Claim(s) 14, 15, 33, 34, 48, and 49 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

### DETAILED ACTION

Acknowledgement is made of applicant's submission of:

Amendment A, which cancels claim 16, 35, and 50, and adds claims 53-55, filed on 8/22/02.

Extension of Time filed on 08/22/02.

The aforementioned items have been noted and officially inserted into the application.

### *Claim Objections*

1. Claim 2 is objected to because of the following informalities: Grammatical error in the following phrase: "...to receive items including computer disks, compact discs, credit cards". The examiner suggests inserting --or-- before "credit cards". Appropriate correction is required.
2. Claims 14, 15, 33, 34, 48, and 49 are objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. Specifically, claim 1, 30, and 39 already recite the limitations of a security safe having a shelf divider mounted within the enclosure. Claims 14, 15, 33, 34, 48, and 49 are in improper form because they contain limitations already recited in the independent claim from which they depend.

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-2, 4, 5, 14, 15, 19, and 53 are rejected under 35 U.S.C. 102(b) as being anticipated by Wakeman (U.S. Patent No. 928,483). Wakeman discloses a security safe as claimed, wherein said safe comprises a housing (A) defining a security enclosure, the housing including an opening into an interior of said enclosure, a door mechanism (a') mounted to the housing, wherein said door mechanism is capable of movement between an opened position and a closed position in which the door mechanism precludes access to the interior of said enclosure. Wakeman's housing further includes an aperture (17), a port hole (18) providing access into said enclosure, and a shelf divider mounted within the enclosure proximate said aperture (generally 20). Furthermore, Wakeman's aperture defines a slot through which items can be inserted into said enclosure. As it concerns claim 4, Wakeman's door mechanism comprises a door (a') attached to the housing by one or more hinges (2/4, 3/5) such that the door is movable between said opened and closes positions. In regards to claim 5, Wakeman's hinges (2/4, 3/5) are concealed from view by the housing and the door when the door mechanism is in the closed position, see Fig. 2. As it concerns claim 53, Wakeman's aperture and port hole are clearly located on the sides of the safe.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wakeman (U.S. Patent No. 928,483). Wakeman discloses a security safe substantially as claimed, wherein said safe comprises an aperture (17) defined by a narrow slot. Wakeman does not disclose the exact dimensions of the safe being 10" high X 17" wide X 12.5" deep, however, the applicant is reminded that a change in the size of a prior art device is a design consideration within the skill of the art. In re Rose, 220 F.2d 459, 105 USPQ 237 (CCPA 1955).

5. Claims 6-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wakeman (U.S. Patent No. 928,483) in view of Wege (U.S. Patent No. 1,054,325). Wakeman discloses a security safe substantially as claimed but does not include a door mechanism having a first door and a second door. Wege discloses a safe having a first door (32) and a second door (31), wherein each door is attached to the housing by one or more hinges. Furthermore, the applicant is reminded that a functional "whereby" statement does not define any structure and accordingly can not serve to distinguish. In re Mason, 114 USPQ 127, 44 CCPA 937 (1957). As it concerns claim 7, Wege's door mechanism is designed in a manner such that when the first door (32) is placed in the closed position, the second door (31) traps the first door in the closed position when the second door is placed in the closed position, see Fig. 3. Additionally, the applicant is

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reminded that a functional "whereby" statement does not define any structure and accordingly can not serve to distinguish. *In re Mason*, 114 USPQ 127, 44 CCPA 937 (1957). In regards to claim 10, Wege's safe comprises a locking mechanism for locking the first and second doors in the closed position, see (B in Fig. 1). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to utilize the teachings of Wege, in regards to dual trapping doors, to modify Wakeman such that less clearance would be required to fully open two doors than would be required by a single door covering a similar enclosure.

6. Claims 11-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wakeman (U.S. Patent No. 928,483) in view of Wege (U.S. Patent No. 1,054,325) further in view of List (U.S. Patent No. 3,866,961). Wakeman, as modified by Wege, discloses a security safe substantially as claimed, wherein said safe includes a locking mechanism. However, said locking mechanism does not include at least one member attached to the housing. List discloses a locking mechanism that teaches the use of a member (25) with a hole (26), wherein said member projects through a breach (19) in a door, wherein said breach is located in a recessed pan (13). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to utilize the teachings of List, in regards to a locking mechanism including a recessed pan and a member projected through a breach, to modify Wakeman, as modified by Wege, such that a padlock or similar keyed lock may be used to secure said doors instead of the combination lock commonly used in safes, thereby eliminating the need to remember complicated combinations.

7. Claims 17, 18, 20, 21, 22, 23, 24, 33, 34, 36, 37, 38, and 54 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wakeman (U.S. Patent No. 928,483) in view of Israel (GB

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2,066,869 A). Wakeman discloses a security safe substantially as claimed, but does not include an anchoring mechanism for securely fastening the safe to a structure. Israel discloses a safe that teaches the use of an anchoring mechanism, wherein said mechanism includes a plurality of orifices in the said housing to allow attachment of said housing to a structure with fasteners (14), such that the fasteners cannot be removed when the door mechanism is in the closed position.

As it concerns claim 20, Wakeman discloses a security safe substantially as claimed as set forth in paragraph 2 of this Office Action. However, Wakeman's door mechanism does not include an aperture. Israel discloses a safe that teaches the use of an aperture (21), wherein said aperture is an elongated slot on the door mechanism (19), see Fig. 1. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to utilize the teachings of Israel, in regards to the use of an anchoring mechanism, to provide Wakeman with a means of securing said safe, thereby preventing the theft of the entire safe and its contents. Furthermore, it would have also been obvious to one having ordinary skill in the art at the time the invention was made to utilize the teachings of Israel, in regards to an aperture on the door mechanism, to accommodate orientation and space problems associated with inserting items into said aperture experienced by the Wakeman reference

8. Claims 25, 26, 27, 28, and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wakeman (U.S. Patent No. 928,483) in view of Israel (GB 2,066,869 A) further in view of Wege (U.S. Patent No. 1,054,325) as set forth in paragraphs 2, 5, and 7 of this Office Action.

9. Claims 30-32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wakeman (U.S. Patent No. 928,483), Israel (GB 2,066,869 A), and Wege (U.S. Patent No. 1,054,325) in view of List (U.S. Patent No. 3,866,961) as set forth in paragraph 6 of this Office Action.

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10. Claims 39, 40, 41, 42, 43, 44, 48, 49, 51, 52, and 55 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wakeman (U.S. Patent No. 928,483) and Wege (U.S. Patent No. 1,054,325) in view of Israel (GB 2,066,869 A) as set forth in paragraphs 2, 4, 5, and 7 of this Office Action.

11. Claims 45-47 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wakeman (U.S. Patent No. 928,483), Wege (U.S. Patent No. 1,054,325), and Israel (GB 2,066,869 A) in view of List (U.S. Patent No. 3,866,961) as set forth in paragraph 6.

### ***Response to Arguments***

12. Applicant's arguments filed on 08/22/02 have been fully considered but they are not persuasive. In response to applicant's arguments that the Wakeman reference does not include a port hole for a power cord and that the Wakeman does not provide a shelf divider mounted within the enclosure for receiving items dropped into said safe, the examiner asserts that Wakeman clearly discloses a port hole (18) and a divider (generally 20). Furthermore, the applicant is reminded that a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim. In a claim drawn to a process of making, the intended use must result in a manipulative difference as compared to the prior art. See *In re Casey*, 152 USPQ 235 (CCPA 1967) and *In re Otto*, 136 USPQ 458, 459 (CCPA 1963).

13. In response to applicant's arguments against the references individually (i.e. the Israel reference), one cannot show nonobviousness by attacking references individually where the



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rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

14. In response to the applicant's arguments that the problems solved by the present invention did not exist at time the cited references were filed, the examiner notes that while the specific items being secured by the present invention may not have existed, the need to secure valuables of various shapes and forms did exist at the time the cited references were filed.

### *Conclusion*

15. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The previously cited patent to Gross (U.S. Patent No. 342,003) discloses a safe having shelving dividers mounted within the enclosure as shown in Fig. 1, see (A).

16. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dinesh N Melwani whose telephone number is 703-305-4546.

The examiner can normally be reached on M-F, 8:30-6 except every other Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, J. J. Swann can be reached on 703-306-4115. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9326 for regular communications and 703-872-9327 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-306-4115.

DNM  
November 5, 2002

  
WILLIAM L. MILLER  
PRIMARY EXAMINER  
3677